IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.A.ABDUL GAFOOR
&
THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

MONDAY, THE 18TH DECEMBER 2006 / 27TH AGRAHAYANA 1928

WA.No. 1463 of 2003(B)

{IN O.P.NO.5151/1994 OF THIS COURT}
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APPELLANTS: RESPONDENTS:
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1. UNION OF INDIA,
REPRESENTED BY THE SECRETARY,
MINISTRY OF FOOD AND
CIVIL SUPPLIES, NEW DELHI.

2. THE FOOD CORPORATION OF INDIA,
REP. BY ITS MANAGING DIRECTOR, 16-20,
BHARAKHAMBA LANE, NEW DELHI-1.

3. THE REGIONAL DIRECTOR (FOOD),
GOVERNMENT OF INDIA,
MINISTRY OF FOOD AND
CIVIL SUPPLIES, SOUTHERN REGION, 5/54,
GREAMS ROAD, CHENNAI-600 006.

BY ADV. SRI.N.M.JAMES, ADDL.CGSC
SRI. AJITH KRISHNAN, ADDL.CGSC

RESPONDENT: PETITIONER:

C.A.BALAKRISHNAN,
RETIRED SENIOR ASST.MANAGER,
FOOD CORPORATION OF INDIA,
RESIDING AT "SREEDHANYA", IST FLOOR,
KELAMANGALATH S.R.M. ROAD,
ERNAKULAM,COCHIN-682018.

BY ADVS. SRI.MAT.PAI
& SMT.GIRIJA VALLABHAN

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 18/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.A.ABDUL GAFOOR &
K.R.UDAYABHANU, JJ.

W.A.No.1463 of 2003 B

Dated this the 18th day of December, 2006.

JUDGMENT

Abdul Gafoor, J.

The issue raised in this writ appeal, at the instance of the Union of India and the Food Corporation, is whether the writ petitioner, the respondent in this appeal, is entitled to arrears of pay consequent on his retrospective promotion with effect from November, 1957. That entitlement of the respondent cannot be disputed any more in the light of Ext.P1 judgment of the Karnataka High Court, which stands confirmed by Ext.P2 judgment of the Apex Court. The former judgment reads as under:

> "We therefore, direct that the petitioner's case for promotion to the post of godown/dock superintendent be considered as on 11.11.1957 when the third respondent was promoted and according to the rules **than it force (**sick '**then in force')**, and that if he is found fit for **promotioness** (sick '**promotion as**') on that etc. the promotion already given to him to that position be dated back to 11.11.1957 and he be granted all consequential

benefits. If he is not found fit for promotion as on 11th November, 1957 he will not get any relief."

2. An appeal was carried to the Supreme Court by the Government of India and the Food Corporation. Ext.P2 is the judgment dismissing the said appeal. Necessarily, Ext.P1 direction stands confirmed. It has been specifically directed in Ext.P1 that, "**in case the writ petitioner/third respondent is entitled to promotion with effect from 11.11.1957 he be granted all consequential benefits**". Consequential benefits arising out of the retrospective promotion are:

(a) The salary and allowances, and

(b) The seniority.

3. The dispute is with regard to the former alone. It is true that there is a general principle of "no work - no pay". This would have been a principle to be canvassed before the Karnataka High Court, which passed Ext.P1 judgment. After Ext.P1 had been rendered inter parte, determining the rights of the parties, one among the parties to the judgment cannot revert

back and say that the consequential benefits cannot be given. Therefore, the learned single Judge was justified in allowing the writ petition to that effect.

Appeal, therefore, fails and it is accordingly dismissed.

(K.A.ABDUL GAFOOR)
JUDGE

(K.R.UDAYABHANU)
JUDGE

sk/

K.A.ABDUL GAFOOR &
K.R.UDAYABHANU, JJ.

W.A.No.1463 of 2006 B

JUDGMENT

18th Decmber, 2006.